

California Regional Water Quality Control Board
Santa Ana Region

November 18, 2005

STAFF REPORT

ITEM: 5

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Feliciana Avila, 24516 Highway 74, Perris, Riverside County, APN 342-150-021

DISCUSSION:

On October 14, 2005, Feliciana Avila contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.76-acre lot at 24516 Highway 74, Perris. Ms. Avila wishes to install a second home (mobile home) and septic tank-subsurface disposal system on this lot.

There is currently a home on the lot that is connected to an existing septic tank-subsurface disposal system. This area of Perris is unsewered. Ms. Avila purchased the lot/home with the intention of purchasing a second dwelling unit/mobile home to be placed on the lot, where she could care for her grandmother.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Ms. Avila's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.38 acres per dwelling unit, Ms. Avila's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Ms. Avila's request for an exemption from the minimum lot size requirements.

Ms. Avila notes that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if she were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size requirement. On this basis, Ms. Avila is appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second home (mobile home) on Ms. Avila's property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Ms. Avila owns the property and her grandmother resides with her, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the proposed additional structure is a mobile home. Ms. Avila has offered to remove the second home (mobile home) and septic system from the property once it is no longer required and has agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second home (mobile home) and septic system have been removed.

RECOMMENDATION:

Approve Ms. Avila's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the second home (mobile home) is no longer required for use of the Avila family, it shall be removed from the property and the septic tank shall either be demolished or removed from service by filling the tank with sand after proper removal and disposal of septage; and 2) Ms. Avila must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second home (mobile home) has been removed and the second septic system have been demolished or removed from service.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys